Case 10-31609 Doc 22 Filed 10/19/10 Entered 10/19/10 11:09:35 Desc Mair Document Page 1 of 6

## The below described is SIGNED.

Dated: October 18, 2010

R. KIMBALL MOSIER U.S. Bankruptcy Judge



Kent W. Plott (USB No. 5336) Mark S. Middlemas (USB No. 9252) Lundberg & Associates 3269 South Main Street, Suite 100 Salt Lake City, UT 84115 (801) 263-3400 (801) 263-6513 (fax) LundbergECFmail@lundbergfirm.com

Attorneys for Deutsche Bank National Trust Company L&A Case No. 09-73999

## IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF UTAH CENTRAL DIVISION

In re:

Bankruptcy No. 10-31609 RKM

Kevin Dwayne Bacon and Victoria Rose
Bacon,

Gauge Chapter 13 case)

Filed Electronically

Debtors.

Hearing: October 20, 2010 @ 10:00 a.m.

## AGREED ORDER

Deutsche Bank National Trust Company as Trustee for American Home Mortgage Assets Trust 2007-2 Mortgage-Backed Pass-Through Certificates, Series 2007-2 ("Creditor"), by and through counsel, and Kevin Dwayne Back and Victoria Rose Bacon ("Debtors"), by and through their counsel jointly present this Agreed Order to the Court. American Home Mortgage Servicing, Inc. presently services this loan. The parties represent and stipulate as follows:

- 1. Creditor filed a Motion for Termination of the Automatic Stay (the "Motion") and a Notice of Hearing on the Motion (the "Notice") with the Court and gave appropriate notice to the debtors, the debtors' counsel, and the Chapter 13 Trustee on September 16, 2010.
- 2. The debtors and the debtors' counsel filed an objection to granting the Motion on October 4, 2010.
- 3. The debtors, having filed multiple bankruptcies that have affected the real property secured by Creditor's lien, stipulate to the following terms to remain current on their post-petition payments to Creditor.
- 4. <u>Automatic Stay</u>. The automatic stay provided by 11 U.S.C. §362 shall remain in effect, except as provided in the paragraphs below. The terms and conditions set forth in this Order governing the continuation of the automatic stay and/or termination due to default by the debtors shall not be amended, altered or superceded by the confirmation order entered in this case, but shall be considered a part of and integrated into the confirmation order. Should the automatic stay be terminated consistent with the terms of this Order, it shall not be reimposed by entry of the confirmation order.
- 5. <u>Regular Monthly Payments</u>. The debtors shall make all regular monthly mortgage payments due to the Creditor pursuant to the terms of the Note and Trust Deed attached to Creditor's Motion, beginning with the payment due on May 1, 2010. The amount of each such payment is

presently \$2,241.02. The amount is subject to change to reflect escrow requirements and any other adjustments provided by the terms of the Note and Trust Deed.

- 6. <u>Trustee Payments</u>. The debtors shall remit to the Trustee the monthly payments described in the debtors' Plan. The debtors shall bring current all delinquent and outstanding payments owed to the Trustee, if any; within 30 days of the date this Order is signed by the Bankruptcy Judge.
- 7. <u>Effect of Non-sufficient Funds</u>. Any check tendered to the Creditor by the debtors which is returned due to non-sufficient funds in the account upon which it is drawn shall not constitute a payment required by the terms of this Order.
- 8. <u>Default</u>. In the event the debtors fail to comply with this stipulation and become delinquent, Creditor shall submit a declaration of default and ex parte order for relief from the automatic stay. Creditor shall be entitled to recover and add to the loan, attorney fees incurred in the preparation of a notice of default, declaration of default and/or order terminating the automatic stay pursuant to the terms of this order.

In addition, should the holder of any other consensual or judicial lien secured against the real property described below obtain relief from the automatic stay, Creditor shall submit a declaration of default and ex parte order for relief from the automatic stay.

Upon order of the court, the stay shall terminate as to the Creditor, its successors and assigns, as to the real property of the debtors located at 4524 Tee Box Drive, South Jordan, in Salt Lake County, Utah more particularly described as:

Lot 211, SOUTH RIDGE FAIRWAYS NO. 2 SUBDIVISION, according to the official plat thereof, as recorded in the office of the Salt Lake County Recorder.

Together with all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property.

It is further ordered that, upon termination of the automatic stay pursuant hereto and notice thereof, the Chapter 13 Trustee shall make no further distribution to Creditor on its secured claim, and Creditor shall file, within 180 days for it to be allowed, an amended proof of claim showing the amount, if any, that should be paid through debtors' plan as an unsecured claim, for any deficiency balance, and shall serve a copy thereof on the Chapter 13 Trustee.

Creditor and/or its successors and assigns may, at its option, offer, provide and enter into a potential forbearance agreement, loan modification, refinance agreement or other loan workout/loss mitigation agreement. Any such agreement shall be non-recourse unless included in a reaffirmation agreement. Creditor may contact the debtors' via telephone or written correspondence to offer such

an agreement. This order shall be binding and effective despite any conversion of this bankruptcy case to a case under any other Chapter of Title 11 of the United States code.

End of Document—

Agreed and approved as to form and substance:

By <u>Electronic Endorsement</u> Robert S. Payne Attorney for Debtors

**LUNDBERG & ASSOCIATES** 

By /s/
Mark S. Middlemas
Attorneys for Creditor

## CERTIFICATE OF NOTIFICATION OF CLERK OF THE COURT

I certify that on \_\_\_\_\_ I sent a copy of the foregoing Stipulation, electronically or by first class mail, to each of the following:

Mark Middlemas LUNDBERG & ASSOCIATES ECF

Attorney for Creditor

Robert S. Payne Lincoln Law ECF

Attorney for Debtors

Kevin Anderson ECF

Chapter 13 Trustee

Kevin Dwayne Bacon Victoria Rose Bacon 4524 W. Tee Box Dr. South Jordan, UT 84095 Debtors

United States Bankruptcy Clerk